

Attorney Docket No. AMS-004

**DECLARATION, POWER OF ATTORNEY, AND PETITION**

I, a below named inventor, depose and say that: (1) my residence, citizenship, and mailing address are indicated below; (2) I have reviewed and understand the contents of my attached patent application, including the claims, which is identified as U.S. Patent Application Serial No. 09/917,562, filed July 27, 2001; (3) I believe that the other below named inventors and I are the original, first, and joint inventors or discoverers of the invention or discovery in

**IMPLANTABLE ARTICLE AND METHOD**

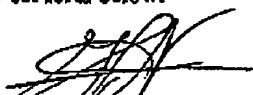
described and claimed therein and for which a patent is sought; and (4) I hereby acknowledge my duty to disclose to the Patent and Trademark Office all information known to me to be material to the patentability as defined in Title 37, Code of Federal Regulations, §1.56,\* and (5) I hereby claim priority to previously filed U.S. Provisional Patent Application Nos. 60/263,472 filed January 23, 2001, 60/269,829 filed February 20, 2001, 60/281,350 filed April 4, 2001, 60/295,068 filed June 1, 2001, and 60/306,915 filed July 20, 2001.

I hereby appoint Jeffrey J. Hohenshell (Reg. No. 34,109), L. C. Cullman (Reg. No. 39,645), J.W. Inskeep (Reg. No. 33,910) and A. Chen (Reg. No. P48,508) as my attorneys and/or agents with full powers (including the powers of appointment, substitution, and revocation) to prosecute this application and any division, continuation, continuation-in-part, reexamination, or reissue thereof, and to transact all business in the Patent and Trademark Office connected therewith; the mailing address and the telephone number of the above-mentioned attorneys and/or agents are:

American Medical Systems  
10700 Bren Road West  
Minnetonka, Minnesota 55343  
Telephone No. 952-930-6135  
Attention: Jeffrey J. Hohenshell

The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Wherefore, I pray for grant of Letters Patent for the invention or discovery described and claimed in the aforementioned specification and we hereby subscribe our names to the foregoing specification and claims, declaration, power of attorney, and this petition, on the day set forth below.



Johann J. Neisz      Date 10/24/01  
 Residence: Coon Rapids, Minnesota  
 Citizenship: Germany  
 Post Office: 10700 Bren Road West  
 Address: Minnetonka, Minnesota 55343

\* Title 37, Code of Federal Regulations; § is attached. This form may be executed only when attached to the specification (including the claims) as the last page thereof.

Attorney Docket No. AMS-004

*John W. Westrum Jr.* 10/26/01  
John W. Westrum, Jr.  
Residence: Prior Lake, Minnesota  
Citizenship: U.S.A  
Post Office: 10700 Bren Road West  
Address: Minnetonka, Minnesota 55343

*Christopher H. Porter* Oct 23, 2001  
Christopher H. Porter  
Residence: Woodinville, Washington  
Citizenship: U.S.A.  
Post Office: 10700 Bren Road West  
Address: Minnetonka, Minnesota 55343

Attorney Docket No. AMS-004

**§1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

DOCKET NO.: 234327US-238546-238546-25

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

IN RE APPLICATION OF:

Johann J. NEISZ et al. : GROUP ART UNIT: 3736

SERIAL NO.: 09/917,562 : EXAMINER: S. Gilbert

FILED: July 27, 2001 :

FOR: IMPLANTABLE ARTICLE AND METHOD

**REVOCATION AND NEW APPOINTMENT OF POWER OF ATTORNEY**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The undersigned representative of AMERICAN MEDICAL SYSTEMS, owner by virtue of assignment of the above-identified application, hereby revokes any and all previous Powers of Attorney and appoints



**22850**

as Assignee's attorney with full power of substitution and revocation, to prosecute said patent application, receive any Letters Patent and to take any and all other actions with regard to this patent application and any Letters Patent issuing thereon, and request that all correspondence be sent to the firm of OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C. whose Post Office Address is: 1940 Duke Street, Alexandria, Virginia 22314.

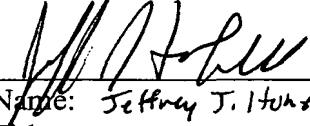
CERTIFICATION UNDER 37 C.F.R. 3.73(b)

I, the undersigned, certify that I am an individual empowered to act on behalf of AMERICAN MEDICAL SYSTEM, the assignee of the entire right, title and interest of the above-identified application by virtue of an assignment from the inventor(s), said Assignment having been recorded in the U.S. Patent and Trademark Office at reel no. 012118, frame 0635.

AMERICAN MEDICAL SYSTEMS

Date: 2/28/03

By:

  
Name: Jeffrey T. Itshensher  
Title: Patent Attorney

(OSMMN 2000)

Docket No. 239575US25CONT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: Johann J NEISZ, et al.

SERIAL NO: New Application

FILED: Herewith

FOR: IMPLANTABLE ARTICLE AND METHOD

**CONFIRMATION OF ATTORNEY AND  
CORRESPONDENCE ADDRESS**

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

The undersigned hereby confirms the attorneys of record for the above-identified application as those appearing in the Revocation and New Appointment of Power of Attorney filed in parent (grandparent) application Serial Number 09/917,562, and accordingly requests the appropriate attorneys of record be noted, and the correct correspondence address be entered for this application as follows:

OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

*W. Todd Baker*

Charles L. Gholtz

Registration No. 26,395

W. Todd Baker  
Registration No. 45,265



22850

Tel. (703) 413-3000  
Fax. (703) 413-2220  
(OSMMN 05/03)